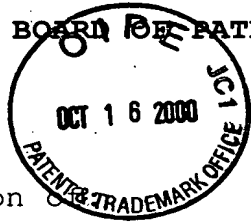


#12/Appeal brief
T.M. C.B. & B. Co.
AF 10/2/00
LNU 2755

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES



ATTORNEY DOCKET NO. RO9-97-195

In re Application of
B. Cragun

Serial No. 09/025,155

Filed: February 18, 1998

For: METHOD AND SYSTEM FOR
AUTOMATIC TASK FOCUS
SWAPPING DURING BROWSER
WAIT TIME

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Examiner: L. Bullock Jr.

Art Unit: 2755

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APPEAL BRIEF UNDER 37 C.F.R. §1.192

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

This Brief is submitted in triplicate in support of the
Appeal in the above-identified patent application.

| CERTIFICATE OF MAILING | |
|---|-----------------------------|
| 37 CFR 1.8(a) | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner of Patents, Washington, D. C. 20231 on the date below. | |
| Date <u>10/12/00</u> | Signature <u>Dena Faris</u> |

REAL PARTY IN INTEREST

The real party in interest to the subject application and this appeal is International Business Machines Corporation, the assignee of record, as indicated in the assignment recorded at frame 0517 of reel 9044.

RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellant or Appellant's legal representative or assignee which directly affect or would be directly affected by or have a bearing on the Board's decision in the present appeal.

STATUS OF CLAIMS

Claims 28-48 remain pending. The rejection of Claims 28-48 is being appealed.

Claims 1-27 were filed in the original application, rejected by the first Office Action (dated November 26, 1999), and canceled by Applicant's Amendment A (dated February 24, 2000). Claims 28-48 were added by Applicant's Amendment A and were finally rejected in a Final Office Action, mailed June 9, 2000. Applicant filed a Response B requesting reconsideration on August 8, 2000. An Advisory Action mailed September 12, 2000, sustained the final rejections.

STATUS OF AMENDMENTS

No amendment has been filed subsequent to the final rejection that led to this Appeal.

SUMMARY OF INVENTION

Early computers were capable of executing only one application at a time. In recent years, however, advances in technology have made it possible for computer users to keep multiple applications active simultaneously (*i.e.*, to use multi-tasking). Since different types of tasks are generally performed by different applications, the ability of the computer to multi-task allows user to work more efficiently. For example, a user might activate (*i.e.*, open) a word processing application to begin drafting a document and subsequently - without closing the word processing application - open a Web browser (or some other communications application) to retrieve data from a remote site, for example to check the definition of a term the user plans to use in the document. Once the definition has been retrieved, the user would then switch focus back to the word processing application to continue drafting the document. Thus, by utilizing multi-tasking, users can avoid the delays associated with closing a current application and then opening a new application every time a different type of task is required.

According to conventional technology, the process of switching focus from the Web browser application to the word processing application is entirely manual. For example, the operating system might provide a task bar that has a separate button for each active application, and the user might click on the button for the word processing application to switch focus to that application.

The present invention is designed for multi-tasking computers and was created in recognition of the fact that, with communications applications, when a request for data is submitted, a substantial amount of time often passes before the communications application finishes retrieving the requested

data. That is, after a user has initiated a link to remote data in the communications application (for example, by selecting a hyperlink or a "go" button), the user is often required to wait for the download to complete. The present invention allows computer users to be more productive by automatically switching focus from a communications application to another active application while the communications application is retrieving data.

Specifically, Claim 28 recites a method by which a local computer that is simultaneously running "a communications application" and other "multi-tasking applications ... automatically switch[es] focus from said communications application to one of said multi-tasking applications" in response to initiation of "a link to a remote network site." Thus, focus could automatically be switched from a Web browser to a word processing application, for example. In addition, "after focus has been switched from said communications application, [it is determined] that said data has been retrieved," and, in response, the user is so notified (Claim 28). Thus, in the context of the above example, the user would be notified that retrieval of the definition has been completed. Certain dependent claims explain that one way to provide this notification is to automatically switch focus back to the communications application.

Also, as recited in certain dependent claims, the invention may utilize various parameters (such as delay thresholds and predefined rings of preferred applications) to determine whether focus should be switched, when focus should be switched, and to which application focus should be switched.

ISSUES ON APPEAL

With reference to the Final Office Action, is the rejection of Claims 28-48 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,011,537 issued to Slotznick well founded? Further, the answer to that broad issue is controlled by the following narrower issues:

(1) Does Slotznick disclose or suggest automatically switching focus from "a communications application" to a different active "application" in response to initiation of a link to a remote network site (Claim 28)?

(2) Does Slotznick disclose or suggest automatically switching focus back to the communications application when the download is complete, but only if "no user input has been received" for "a predetermined period of time" (Claim 30)?

(3) Does Slotznick disclose or suggest utilizing a "ring of applications," such that focus is switched from the communications application to an application that is currently active and listed in the ring as a "selected" application (Claim 33)?

GROUPING OF CLAIMS

For purposes this appeal, Claims 28-29, 31-32, 34-36, 38-39, 41-43, 45-46, and 48 stand or fall together as a first group; Claims 30, 37, and 44 stand or fall together as a second group; and Claims 33, 40, and 47 stand or fall together as a third group.

ARGUMENT

The Final Office Action rejects Claims 28-48 under 35 U.S.C. § 103(a). In appealing that rejection, this Appeal Brief utilizes three groups of claims. Those three groups correspond

to the issues identified above as issues 1, 2, and 3. That grouping is appropriate, as the claims of the three groups define three patentably distinct inventions. Specifically, the second group relates to an embodiment that automatically switches focus back to the communications application when the download is complete, but only if "no user input has been received" for "a predetermined period of time" (Claim 30); and the third group relates to an embodiment that utilizes a "ring of applications," such that focus is switched from the communications application to an application that is both listed in the ring and currently active (Claim 33). The embodiments described by the second and third groups therefore include non-obvious alterations or enhancements of the invention defined by the first group.

Issue 1

Slotznick does not disclose or suggest automatically switching focus from "a communications application" to another active "application" in response to initiation of a link to a remote network site (Claim 28).

Slotznick is directed primarily towards a single application that displays multiple windows, particularly an enhanced Web browser capable of displaying "primary data" in one window while associated "secondary data" is being downloaded into another window (**Figures 4 and 5**; column 21, line 52 - column 22, line 54). Nothing in Slotznick pertains to automatically swapping focus from the Web browser to another existing multi-tasking application.

The Final Office Action cites numerous sections of Slotznick that describe a browser application which utilizes multiple windows to display primary data and secondary data. Further, the Final Office Action equates the windows of Slotznick with the

applications of the present application. However, it is improper to equate windows and applications, as windows and applications simply are not interchangeable concepts, either in the abstract or as utilized in Slotznick and the present application.

As recognized in the Microsoft Press Computer Dictionary, an application is a "program designed to assist in the performance of a specific task, such as word processing, accounting, or inventory management" (3rd ed. 1997, p. 27). By contrast, a window is "a portion of the screen that can contain its own document or message" (*id.*, p. 508). The present invention does not merely swap between windows of a single application; the present invention swaps to another application. For example, as recited in dependent Claims 32, 39, and 46, focus can be swapped to a previously utilized application, such as a word processor that was being used to draft a document. The present invention therefore facilitates productivity increases in a way that is neither disclosed nor suggested by Slotznick, with its solitary Web browser application.

The Advisory Action, in a similar vein, asserts that lines 34-40 of column 23 teach switching focus from a communications application to another application. Those lines explain that Slotznick's communications application performs two "processes" at once. Specifically, the communications application displays a trailer "in the foreground" while the communications application is also "contemporaneously retrieving ... new information ... in the background." The Advisory Action asserts that simultaneously executing two processes is the same thing as switching focus from a communications application to a different application. However, that assertion is incorrect, as it fails to recognize that the two "processes" described in Slotznick are both part of the same application, specifically, the communications application. The Advisory Action is therefore

incorrect in its assertion that Slotznick teaches switching focus from a communications application to another application. Thus one skilled in the art would not be motivated to modify Slotznick to switch focus from the communications application to another application.

Another part of Slotznick cited in the Final Office Action as allegedly teaching automatically switching focus among multiple, concurrent applications is lines 29-33 of column 33. Those lines, which relate to code for filtering downloaded documents, do mention that filtering code can be implemented as a memory resident application, such as a virus checker, that could run concurrently with a Web browser application. However, the cited lines do not teach that focus might be switched to the memory resident application. On the contrary, the preceding sentences of Slotznick explain that the purpose of the filtering code is to prevent the secondary information from being displayed (col. 33, lines 3-8) and that the filter program "remains loaded and runs, *but is not displayed* except as a small button or icon [such as an icon in a Windows-like status bar] which indicates that the program is active and running," (col. 34, lines 57-59, emphasis added). Slotznick therefore does not teach swapping focus to a multi-tasking application, but, instead, explicitly teaches away from such functionality. The Final Office Action also cites lines 13-26 of column 34, but those lines simply relate to how the filtering program might monitor information and do not relate to swapping focus to the filtering program or otherwise causing the filtering program to be displayed.

The Final Office Action also asserts that lines 34-57 of column 7 of Slotznick teach swapping from the communications application to another multi-tasking application. However, those lines do not disclose or suggest swapping to an existing application (such as a recently-utilized word processor), but

instead relate to starting a new program. In particular, Slotznick explains that what causes "the JavaScript ... for displaying the full secondary information" to be started is, for example, the click on the hyperlink. By contrast, as explained above, the present invention does not start a new application but swaps focus to an existing application, thereby allowing a user to resume previous task, for example. Furthermore, according to Slotznick, the hyperlink and the corresponding JavaScript are intimately related, whereas, according to the present invention, the application that receives focus when a hyperlink is selected may be completely unrelated to that hyperlink.

For all of the foregoing reasons, Slotznick does not disclose or suggest all of the features of Claim 28. The rejection of that claim as unpatentable over Slotznick should therefore be reversed.

Issue 2

Slotznick does not disclose or suggest "automatically switching focus back to said communications application" when the download is complete, but only if "no user input has been received" for "a predetermined period of time" (Claim 30). As explained above, Slotznick never swaps focus away from the communications application. It should therefore come as no surprise that Slotznick lacks any teaching relating to swapping focus back to the communication application.

The Final Office Action cites lines 8-19 of column 21 as teaching this feature, but those lines make no mention of user input. Instead, those lines explain that the communications application automatically removes the secondary information from the screen and replaces it with new primary information "after a preset period of time," provided that downloading of the new

primary data is complete. Those lines have nothing to do with swapping focus to the communications application from a different application. Moreover, those lines have nothing to do with "detecting expiration of a predetermined period of time in which no user input has been received."

Taking a slightly different tack, the Advisory Action asserts that the feature of "automatically switching focus back to the communications application" after "a predetermined period of time in which no user input has been received" is taught by lines 5-18 of column 26 of Slotznick. While those lines explain that the communication application may automatically change what information is displayed after a predetermined period of time, those lines do not relate to swapping focus back to the communications application *from some other application*. In addition, while those lines do explain that the new information may alternatively be displayed in response to user input (rather than automatically), those lines do not state or suggests that the new information could be automatically displayed only if user input has *not* been received for a predetermined period of time.

For all of the foregoing reasons, Slotznick does not disclose or suggest all of the features of Claim 30, and the rejection of that claim should therefore be reversed.

Issue 3

Claim 33 recites "consulting a ring of applications to identify a selected application among said ring and among said multi-tasking applications" and "automatically switching focus to said identified application." Claim 33 therefore relates to an application ring in which applications can be selected or not selected. An exemplary interface for modifying such an application ring and flagging individual applications as selected

is illustrated within option list 240 of **Figure 8** of the present specification. Claim 33 therefore involves at least the two basic concepts of "a ring of applications" and "a selected application among said ring." Slotznick, however, neither discloses nor suggests either of these basic concepts, let alone implementing the functionality recited in Claim 33 that utilizes those concepts.

In the Final Office Action, Claim 33 is rejected with the following explanation: "It would be obvious that since the user can request additional secondary data and each secondary data is linked to another secondary data, the user is therefore consulting the windows (Col 22, lines 31-49)." This explanation, however, makes no connection between the cited lines of Slotznick and even one of the features explicitly recited in Claim 33.

The cited lines of Slotznick explain that the secondary data may include links to "additional secondary data" (col. 22, lines 39-40). Accordingly, the cited section goes on to explain that, if a user were to select a link to "additional secondary data," the original secondary data could be replaced on the display with the "additional secondary data" without any intervening "primary" data (col. 22, lines 47-49). Those teachings, however, have nothing to do with identifying an application that is (1) listed in a ring of applications, and (2) "selected" in that ring (Claim 33).

Moreover, Claim 33 further recites that the step of identifying is made in further consideration of whether a "selected application among said ring" is also a currently active multi-tasking application. As explained above, Slotznick has nothing to do with switching focus from the communications application to a different, currently active multi-tasking application. Consequently, it is clear that Slotznick does not

disclose or suggest "consulting a ring of applications to identify a selected application among said ring and among said multi-tasking applications" and "automatically switching focus to said identified application" (Claim 33).

The Advisory Action cites a different portion of Slotznick in support of the assertion that Slotznick renders Claim 33 obvious. Specifically, the Advisory Action points to line 33 of column 23 through line 9 of column 24, and reasserts that Slotznick's description of a browser application which displays data "in the foreground" while retrieving new data "in the background" (col. 23, lines 39-40) teaches Applicant's process of switching focus from the communications application to a different application. As explained above, however, that assertion is in error. Nevertheless, the Advisory Action goes on to cite line 62 of column 29 through line 3 of column 30 and lines 24-34 of column 30, asserting that, since Slotznick teaches that two items of secondary data may be stored and then displayed, "it is obvious that the keyhole images could be stored in a list."

However, Claim 33 does not involve storing keyhole images, and Claim 33 does not involve a simple list. Instead, Claim 33 involves the substantially different concept of a "ring of applications" in which, by the explicit terms of Claim 33, an individual application can be identified as "a selected application." Slotznick makes no mention of any such rings, and one of ordinary skill in the art would not interpret any part of Slotznick as suggest use of such rings. Furthermore, there is no mention or suggestion of utilizing such a ring to identify a currently-active multi-tasking application or of automatically switching focus to an application so identified.

For all of the foregoing reasons, Slotznick does not disclose or suggest all of the features of Claim 33, and the rejection of that claim should therefore be reversed.

CONCLUSION

The patentable differences between Applicant's invention and the prior art have been discussed with reference to the methods described in Claims 28, 30, and 33. Those differences also pertain to the corresponding system claims and program-product claims (i.e., Claims 35, 37, and 40, and Claims 42, 44, and 47, respectively). In addition, all of the dependent claims necessarily include all of the features of their respective independent claims. It is therefore clear that Examiner has not made out a *prima facie* case of obviousness for any of the pending claims.

Appellant has pointed out with specificity the manifest errors in the Examiner's rejections and has pointed out the claim language that renders the present invention patentable over the prior art of record. It is therefore respectfully requested that this case be remanded to the Examiner with instructions to issue a Notice of Allowance with respect to all pending claims.

Please charge the fee of \$310.00, due under 37 C.F.R. \$1.17(c) for filing an Appeal Brief, to International Business Machines (IBM) Corporation's Deposit Account No. **09-0465**. A Notice of Appeal was filed in this case on September 11, 2000, and therefore no extension of time is believed to be required for this Appeal Brief. However, in the event an extension of time is required, please consider that extension requested and charge the fee therefor, and any additional required fees, to IBM Corporation's Deposit Account No. **09-0465**.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "MBarré", is written over a horizontal line.

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APPENDIX

1 28. (unchanged) A method for automatically swapping application
2 tasks running within a local network site of a computer network
3 when access from said local network site to a remote network site
4 is delayed, said method comprising:

5 initiating, from a communications application at a
6 local network site, a link to a remote network site while multi-
7 tasking applications are simultaneously running at said local
8 network site;

9 initiating retrieval of data from said remote network
10 site, in response to initiating said link;

11 automatically switching focus from said communications
12 application to one of said multi-tasking applications, in
13 response to initiating said link;

14 determining, after focus has been switched from said
15 communications application, that said data has been retrieved;
16 and

17 automatically providing user notification that said
18 data has been retrieved, in response to said determination.

1 29. (unchanged) The method of claim 28, wherein said step of
2 automatically providing user notification comprises automatically
3 switching focus back to said communications application from said
4 one of said multi-tasking applications.

1 30. (unchanged) The method of claim 29, wherein:

2 said method further comprises detecting expiration of
3 a predetermined period of time in which no user input has been
4 received; and

5 said step of switching focus back to said
6 communications application is performed only after said step of
7 detecting said expiration.

1 31. (unchanged) The method of claim 28, further comprising:

2 receiving user input selecting said communications
3 application after said notification has been provided; and

4 switching focus back to said communications application
5 from said multi-tasking application in response to receipt of
6 said user input.

1 32. (unchanged) The method of claim 28, wherein:

2 said method further comprises identifying a previously
3 utilized application among said multi-tasking applications; and

4 said step of automatically switching focus to said
5 multi-tasking application comprises automatically switching focus
6 to said previously utilized application.

1 33. (unchanged) The method of claim 28, wherein:

2 said method further comprises consulting a ring of
3 applications to identify a selected application among said ring
4 and among said multi-tasking applications; and

5 said step of automatically switching focus to said
6 multi-tasking application comprises automatically switching focus
7 to said identified application.

1 34. (unchanged) The method of claim 28, wherein:

2 said method further comprises determining whether said
3 link is a time-consuming link, based on a location of said remote
4 network site; and

5 said step of automatically switching focus to said
6 multi-tasking application is performed only if said link is
7 determined to be a time consuming link.

1 35. (unchanged) A system for automatically swapping application
2 tasks running within a local network site of a computer network
3 when access from said local network site to a remote network site
4 is delayed, said system comprising:

5 a local network site including processing resources,
6 memory operatively linked to said processing resources, and a
7 communications facility operatively linked to said processing
8 resources;

9 a communications application, running in said
10 processing resources, that initiates a link to a remote network
11 site via said communications facility while multi-tasking
12 applications are simultaneously running at said local network
13 site;

14 means for initiating retrieval of data from said remote
15 network site, in response to initiating said link;

16 means for automatically switching focus from said
17 communications application to one of said multi-tasking
18 applications, in response to initiating said link;

19 means for determining, after focus has been switched
20 from said communications application, that said data has been
21 retrieved; and

22 means for automatically providing user notification
23 that said data has been retrieved, in response to said
24 determination.

1 36. (unchanged) A system according to claim 35, wherein said
2 means for automatically providing user notification comprises
3 means for automatically switching focus back to said
4 communications application from said one of said multi-tasking
5 applications.

1 37. (unchanged) A system according to claim 36, wherein:
2 said system further comprises means for detecting
3 expiration of a predetermined period of time in which no user
4 input has been received; and
5 said means for automatically switching focus back to
6 said communications application operates only after said
7 expiration is detected.

1 38. (unchanged) A system according to claim 35, further
2 comprising:
3 means for receiving user input selecting said
4 communications application after said notification has been
5 provided; and
6 means for switching focus back to said communications
7 application from said multi-tasking application in response to
8 receipt of said user input.

1 39. (unchanged) A system according to claim 35, wherein:
2 said system further comprises means for identifying a
3 previously utilized application among said multi-tasking
4 applications; and
5 said means for automatically switching focus to said multi-
6 tasking application comprises means for automatically switching
7 focus to said previously utilized application.

1 40. (unchanged) A system according to claim 35, wherein:

2 said system further comprises means for consulting a
3 ring of applications to identify a selected application among
4 said ring and among said multi-tasking applications; and

5 said means for automatically switching focus to said
6 multi-tasking application comprises means for automatically
7 switching focus to said identified application.

1 41. (unchanged) A system according to claim 35, wherein:

2 said system further comprises means for determining
3 whether said link is a time-consuming link, based on a location
4 of said remote network site; and

5 said means for automatically switching focus to said
6 multi-tasking application operates only if said link is
7 determined to be a time consuming link.

1 42. (unchanged) A program product for automatically swapping
2 application tasks running within a local network site of computer
3 network when access from said local network site to a remote
4 network site is delayed, said program product comprising:

5 a communications application that initiates a link to
6 a remote network site while multi-tasking applications are
7 simultaneously running at said local network site;

8 means for initiating retrieval of data from said remote
9 network site, in response to initiating said link;

10 means for automatically switching focus from said
11 communications application to one of said multi-tasking
12 applications, in response to initiating said link;

13 means for determining, after focus has been switched
14 from said communications application, that said data has been
15 retrieved; and

16 means for automatically providing user notification
17 that said data has been retrieved, in response to said
18 determination; and

19 a computer usable medium encoding said communications
20 application, said means for initiating retrieval of data, said
21 means for automatically switching focus from said communications
22 application, said means for determining, and said means for
23 automatically providing user notification.

1 43. (unchanged) A program product according to claim 42,
2 wherein said means for automatically providing user notification
3 comprises means for automatically switching focus back to said
4 communications application from said one of said multi-tasking
5 applications.

1 44. (unchanged) A program product according to claim 43,
2 wherein:

3 said computer usable medium further encodes means for
4 detecting expiration of a predetermined period of time in which
5 no user input has been received; and

6 said means for automatically switching focus back to
7 said communications application operates only after said
8 expiration is detected.

1 45. (unchanged) A program product according to claim 42,
2 wherein said computer usable medium further encodes:

3 means for receiving user input selecting said
4 communications application after said notification has been
5 provided; and

6 means for switching focus back to said communications
7 application from said multi-tasking application in response to
8 receipt of said user input.

1 46. (unchanged) A program product according to claim 42,
2 wherein:

3 said computer usable medium further encodes means for
4 identifying a previously utilized application among said multi-
5 tasking applications; and

6 said means for automatically switching focus to said
7 multi-tasking application comprises means for automatically
8 switching focus to said previously utilized application.

1 47. (unchanged) A program product according to claim 42,
2 wherein:

3 said computer usable medium further encodes means for
4 consulting a ring of applications to identify a selected
5 application among said ring and among said multi-tasking
6 applications; and

7 said means for automatically switching focus to said
8 multi-tasking application comprises means for automatically
9 switching focus to said identified application.

1 48. (unchanged) A program product according to claim 42,
2 wherein:

3 said computer usable medium further encodes means for
4 determining whether said link is a time-consuming link, based on
5 a location of said remote network site; and

6 said means for automatically switching focus to said
7 multi-tasking application operates only if said link is
8 determined to be a time consuming link.